

**REMARKS**

The Office action objected to claim 10 and rejected claims 1-5, 10-13, and 16-29 under 35 USC §102(e) as being anticipated by Gardner (United States Patent Application 2002/0091473) and rejected claims 6-9 and 14-15 under 35 USC §103(a) over Gardner in view of either Geisler (US 2004/00888205) or William Cohen. The applicants respond as follows.

**AMENDMENT TO THE DRAWINGS**

Figure 4 has been amended to correct the reference number. Reference number 500 is changed to reference number 400, matching the reference number used in the specification in paragraph 0058. No new matter was introduced.

**CLAIM OBJECTION**

The examiner objected to the word “the” in the text of claim 10. The applicants respectfully point out that the word “the” was intentionally placed before the word classifying to provide a strict antecedent basis for the particular classifying that is taking place, specifically, the classifying of claim 1. Similar antecedent is used for the same purpose in the preamble of claims 6-9. The applicants request the language of claim 10 be allowed to remain as-is.

**SECTION 102 REJECTIONS**

The Office action rejected claims 1-5, 10-13 and 16-29 as being anticipated by Gardner. The applicants respectfully traverse.

Gardner describes a general classification process. The current application describes and claims a specific activity classifier that determines whether the vehicle is being maneuvered or not being maneuvered. This specific activity classification process is not disclosed in the Gardner prior art.

The current application, beginning at paragraph 0038 and continuing through at least paragraph 0061, describes in detail a process encompassing the evaluation of inputs to classify “the driver activity into one of at least two states based upon the sensor data, a first of

the at least two states corresponding to a maneuver activity and a second of the at least two states corresponding to a non-maneuver activity,” quoting Claim 1. The classification method involves mathematical analysis of inputs, in one example in paragraph 0056, steering wheel position, steering wheel speed, turn signal state, braking and speed, to classify the driver activity as corresponding to maneuver or non-maneuver, see paragraph 0038. Gardner does not teach or suggest the classification system claimed in the current application.

Each of the independent claims 1, 12 and 25 claim classification of the activity state of the driver into one of a maneuver and non-maneuver using the afore described process. This specific process is not taught by Gardner. For at least the reasons discussed above, each of these independent claims are not anticipated by the Gardner reference and are allowable. For the same reason, the respective dependent claims, 2-11, 13-24 and 26-29 are also allowable. As also noted below, the Gardner reference does not render the claims of the current application obvious under 35 USC § 103(a) because of the common ownership provision of 35 USC § 103(c).

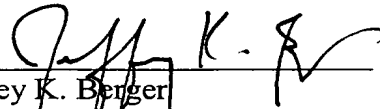
#### **SECTION 103 REJECTIONS**

Claims 6-9 and 14-15 under 35 USC §103(a) over Gardner in view of either Geisler (US 2004/00888205) or William Cohen. The applicants assert that both the Gardner patent and the current application, at the time of the invention, were commonly owned by Motorola, Inc.. Therefore, under the provisions of 35 USC §103(c) the Gardner reference may not be applied in a rejection based on 35 USC §103(a). Since the Gardner reference is the basis for all the obviousness rejections, its removal allows the withdrawal of the obviousness rejections to claims 6-9 and 14-15.

In view of the above amendment, the applicants believe the pending application is in condition for allowance. No fees are believed due, but should a fee be required, the Commissioner is directed to Deposit Account 13-2855.

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Respectfully submitted,

By   
Jeffrey K. Berger

Registration No.: 51,460

MARSHALL, GERSTEIN & BORUN LLP

233 S. Wacker Drive, Suite 6300

Sears Tower

Chicago, Illinois 60606-6357

(312) 474-6300

Agent for Applicant

Attachments

**AMENDMENTS TO THE DRAWINGS**

The attached sheet(s) of drawings includes changes to Fig. 4 to correct reference number 500 to read 400.

Attachment:      Replacement sheet  
                         Annotated sheet showing changes

Application No.: 10/748,549

Docket No.: 29248/39322A

**REPLACEMENT SHEET**

**ANNOTATED SHEET SHOWING CHANGES**

